

## **REMARKS**

Claims 1-20, 24, 81, and 85-92 were previously pending in the above-identified Application. Claims 1 and 85 have been amended, and Claims 93 has been added. Accordingly, Claims 1-20, 24, 81 and 85-93 are presented for further consideration.

### **Response to Rejections of Claims 1, 2, 4, 6-8, 10-19, 24, 81, 89-92 under 35 U.S.C. § 102(e)**

The Office Action rejected Claims 1, 2, 4, 6-8, 10-19, 24, 81, 89-92 under 35 U.S.C. § 102(e) as being anticipated by U.S. Pub. No. 2002/0178447 by Plotnick et al. ("Plotnick"). Applicants respectfully disagree and traverse these rejections, the characterization of the pending claims, and each and every implicit and explicit official notice. However, Applicants have amended Claims 1 and 85. Applicants reserve the right to pursue the previously presented and canceled claims in one or more related applications.

The present Application was filed on October 17, 2001. Plotnick was filed after the present Application on April 3, 2002, but claims priority to two provisional applications, U.S. Prov. App. No. 60/281,037 (hereinafter, the '037 provisional application), filed on April 3, 2001, and U.S. Prov. App. No. 60/329,992 (hereinafter, the '992 provisional application), filed on October 17, 2001. Therefore, Applicants respectfully submit that Plotnick is not prior art to the Application for any matter which is not disclosed or enabled by the '037 provisional application or the '992 provisional application. See M.P.E.P. § 706.02(f)(1)(I)(B) ("The 35 U.S.C. 102(e) date of a reference...is its earliest effective U.S. filing date...if the prior application(s) properly supports the subject matter used to make the rejection in compliance with 35 U.S.C. 112, first paragraph.") (emphasis added).

In addition, Applicants respectfully submit that Plotnick is not prior art to the Application for any matter supported solely by the '992 provisional application because the '992 provisional application was filed on the same date as the present Application.

### **Independent Claim 1**

Although Applicant reserves the right to pursue Claims rejected in the above-referenced Office Action, Applicant amended Claim 1 to provide an additional distinction over Plotnick, and more specifically the '037 provisional application. Specifically, Applicant added the additional limitation that: "steps (e) and (f) are repeated with newly selected advertisements from the plurality of stored advertisements, when receiving an additional signal from a viewer control

interface indicating a viewer command to the audiovisual system to avoid a currently displayed advertisement until all of the plurality of stored advertisements have been skipped or at least one of the plurality of stored advertisements has been displayed on the display without receiving a viewer command to the audiovisual system to avoid the at least one of the plurality of stored advertisements.” Plotnick does not teach or suggest such a limitation. Support for this limitation can be found at least on page 9, lines 5-15 of the application:

The advertisement may also be displayed upon user request. For example, a menu of available selected commercials may be displayed and the user can select an advertisement from the menu. Alternatively, an indication of the commercial, such as a banner or icon may be displayed in conjunction with the broadcast stream. The user may then select to view the advertisement. The broadcast stream will then be stored and the secondary content, e.g., advertisement will be displayed. Yet another alternative method for displaying advertisements is to display an advertisement until the viewer actually views an advertisement. For example, if the viewer fast-forwards through a selected advertisement, another selected advertisement is displayed. The process is repeated until the user appears to have viewed an advertisement (e.g., does not fast forward through a selected advertisement, does not turn off the PVR 22, does not change channels, etc.).

For at least the reasons stated above, Applicants respectfully request that the rejection of Claim 1 be withdrawn and that this claim be passed to allowance.

**Dependent Claims 2, 4, 6-8, 10-19, 24, 81, 89-93**

Claims 2, 4, 6-8, 10-19, 24, 81, 89-93 each depend, either directly or indirectly, from independent Claim 1. They are each believed to be patentably distinguished, *inter alia*, for the reasons set forth above in relation to Claim 1 and for the additional features recited therein and in any intervening claims. Accordingly, Applicants respectfully request that the rejections of Claims 2, 4, 6-8, 10-19, 24, 81, 89-92 be withdrawn and that these claims be passed to allowance.

Claim 93 is a new claim that points out additional features of the limitation of Claim 1. For the same reasons, Applicant respectfully requests that this new claim be passed to allowance.

**Response to Rejections of Claims 3, 5, 9, 20, 85-88 under 35 U.S.C. § 103(a)**

The Office Action rejected Claims 3, 5, 9, 20, 85-88 under 35 U.S.C. § 103(a). Claim 5 was rejected as being unpatentable over Plotnick in view of U.S. Pat. No. 6,718,551 to Swix et al. (“Swix”). Claim 20 was rejected as being unpatentable over Plotnick. Claims 3, 9, 85-88 were rejected as being unpatentable over Plotnick in view of U.S. Pat. Pub. No. 2003/0110499

Knudson et al. ("Knudson"). Applicants respectfully disagree and traverse these rejections, the characterization of the pending claims, and each and every implicit and/or explicit official notice.

It is respectfully suggested that neither Plotnick, Swix, nor Knudson—alone or in combination—teach or suggest all of the limitations of Claim 1 including repeating "steps (e) and (f) ... with newly selected advertisements from the plurality of stored advertisements, when receiving an additional signal from a viewer control interface indicating a viewer command to the audiovisual system to avoid a currently displayed advertisement until all of the plurality of stored advertisements have been skipped or at least one of the plurality of stored advertisements has been displayed on the display without receiving a viewer command to the audiovisual system to avoid the at least one of the plurality of stored advertisements."

Additionally, it is respectfully suggested that the examiner misinterpreted the limitation of Claim 85, relating to defining individual profiles. It is suggested that Plotnick does not, in fact teach defining different profiles related to different individuals watching the DVR/PVR. However, Claim 85 has been amended to more distinctly describe this difference. Plotnick does not describe "defining at least two individual profiles associated with potentially different viewers based on different portions of the viewer profile." At most, Plotnick mentions "one or more viewer profiles" and describes that "each user may be assignment [sic] a random identification for the purposes of collecting information." (See p. 22, Part M). Plotnick does not describe—let alone enable—defining different individual profiles from the viewing profile data alone. In contrast, support for Claim 85 is found on Page 8, lines 21-27 of the present application:

Based on the previous viewing habits, it may be apparent that the "viewer profile" is actually an aggregate of multiple individual viewers. For example, children's programs may be displayed on weekend morning and on weekday afternoons, soap operas may be viewed in the morning and early afternoon, movies may be viewed in the evenings and sporting events may be displayed on weekend afternoons. This type of viewing may be typical for a family. Based on these viewing habits, advertisements can be selected by the individual or individuals who are likely to be viewing the display 26 at a given time.

Neither Swix, nor Knudson—alone or in combination with Plotnick or each other—teach or suggest this limitation either.

**Application No.:** 09/982,652  
**Filing Date:** October 17, 2001

Accordingly, Applicants respectfully request that the rejections of The Office Action of Claims 3, 5, 9, 20, 85-88 be withdrawn and that these claims be passed to allowance.

**No Disclaimers or Disavowals**

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 23-1209

Respectfully submitted,

WESTERN DIGITAL TECHNOLOGIES, INC.

Dated: April 23, 2010

By: Nicholas Atchison  
Nicholas Atchison  
Registration No. 63446  
Attorney of Record